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In re Application of :
Timothy Jon Leeper, et. al. :
Application No. 10/658,789 : **ON PETITION**
Filed: September 10, 2003 :
Attorney Docket No. ANIC.108193 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2004, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application mailed December 3, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned after midnight February 3, 2004.

In response, petitioner submitted with the instant petition an authorization to charge the listed deposit account \$665 for the petition to revive fee, \$385 for the basic filing fee, a \$65 surcharge for the late filing of an Oath/Declaration, \$1,005 for a five (5) month extension of time, an executed Declaration, and a copy of originally filed drawing Figures 1A-1E, and Figure 2. As authorized, the above fees have been charged to petitioner's deposit account.

The petition is **GRANTED**.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See *In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1,005 extension of time, submitted with the petition on September 2, 2004, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

The application file is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy